IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 8444 OF 2004.

Shri Vasant Bhagoji Kale. .. Petitioner.

V/s.

The Collector, Nashik & ors. ... Respondents.

Shri Haridas for P.N. Joshi for the petitioner.

Shri A.H. Palekar, AGOP for respondent NO.1.

Shri Vikas Shivarkar with Shri Santosh Patil or respondent No.2.

CORAM : V.C.DAGA, J.

DATED : 26.9.2006.

P.C. :

. This petition is directed against the order dated 21.9. 2004 passed by the Divisional Commissioner, Nasik Division, Nasik, confirming the order dated 22.7.2004, passed by the Collector, Nashik, whereby petitioner, who was holding post of Sarpanch of the Grampanchayat of village Redgaon, Taluka Chandwad, District Nashik, came to be disqualified on the ground that he got 4th child after election.

2. Having seen the material on record, there is sufficient evidence on record to support the findings recorded by both the Authotities below. One of the document produced is the certificate issued by the Medical Officer, Public Health Centre,

Gram Panchayat, Redgaon, Taluka Chandwad, Dist. Nashik, wherein, name of the wife of the petitioner is recorded along with other particulars. It is no doubt true that some better evidence could have been brought on record, but it is always difficult to get evidence in this behalf since facts are particularly within the knowledge of the person delivering the child, or their family members, especially when person is in politics and his act is likely to incur disqualification, then, attempt is made to suppress such evidence. Considered from this aspect, whatever material is available on record and accepted by both the parties is sufficient to sustain the findings recorded by the authorities below.

3. This Court not being a court of appeal is not expected to reappreciate evidence. If the authorities below have accepted the evidence, the same will have to be accepted in the absence of any perversity demonstrated.

4. Having said so, it is necessary to take note of the judgment of the Apex Court in the case of **Laxmikant Revchand Bhojwani & anr. vs. Pratapsingh Mohansingh Pardeshi (1995) 6 SCC 576,** in para 9, before considering rival submissions, wherein following observations were made:

. " Before parting with this judgment, we would like to say that the High Court was not justified in extending its jurisdiction under Article 227 of the Constitution of India. The Act is a special legislation governing landlord-tenant relationship and disputes. The legislature has, in its wisdom, not provided second appeal or revision to the High Court. The object is to give finality to the decision of the appellate authority. The High Court under Article 227 of the Constitution of India cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice, where grave injustice would be done unless the High Court interferes."

5. Bearing in mind the above observations of the Apex Court and considering concurrent finding of fact recorded by the authorities below, it is very difficult to reach to the conclusion that the impugned order is a perverse order. Cogent reasons are given by the lower appellate authority while confirming the findings of fact recorded by the authority. The lower appellate authority appreciated evidence and recorded findings of fact and affirmed the findings of facts recorded by the first authority. No case is made out either in the petition or during the course of hearing to demonstrate that any piece of evidence was not taken into account by the Courts below or that any piece of evidence was misconstrued by the lower appellate authority.

6. In the above view of the matter, petition is

without any substance. The same is liable to be dismissed.

7. In the result, petition is dismissed in limine with no order as to costs.

(V.C.DAGA,J.)